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ABSTRACT

The National Council of La Raza applauds the recent efforts of the Immigration and Naturalization Service (INS) to increase its overall effectiveness by changing its organizational structure, modernizing its information systems, and improving its public image. However, in a number of important areas, the INS still faces grave problems. While overall reductions in backlogs have been achieved, certain INS districts still suffer through long delays associated with continuing backlogs. In general, INS public service suffers from lack of adequate funding, staffing, and training. Irrespective of the past two years' changes in management strategy, there is no substitute for increases in funding for INS service and outreach activities. Another critical concern of the Hispanic community is the issue of differential treatment of Hispanics in the administration of immigration laws. While only 60 percent of the undocumented immigrants in the United States are Hispanic, over 90 percent of persons apprehended, searched, and expelled are Hispanic. The INS should re-examine the cost-effectiveness of its area control operations, eliminate its overlap and conflicts with other enforcement agencies, and carefully review the Systematic Alien Verification for Entitlements Program. La Raza approves of recent efforts to reform the Office of Professional Responsibility (OPR), but serious faults (such as the lack of cooperation by INS with OPR investigators) persist. Finally, La Raza calls on the INS to recognize and address procedural concerns regarding the current Cuban Adjustment Program. (KH)

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STATEMENT

ON THE

IMMIGRATION AND NATURALIZATION SERVICE

IMPLICATIONS FOR HISPANICS

BY

RAUL YZAGUIRRE
PRESIDENT
NATIONAL COUNCIL OF LA RAZA

BEFORE THE

HOUSE SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND INTERNATIONAL LAW

CHAIRMAN

HONORABLE ROMANO MAZZOLI

MARCH 27, 1985

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STATEMENT
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BY

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PRESIDENT
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Mr. Chairman, and members of the Subcommittee, I now submit for the record the following statement on the Immigration and Naturalization Service (INS), on behalf of the National Council of La Raza. I do so in my capacity as President of La Raza, which is a private, nonprofit Hispanic organization dedicated to the improvement of the socio-economic status of all Hispanic peoples in the United States.

I. IMPROVEMENTS

A. New Management Strategies

Over the last few years, the Immigration and Naturalization Service (INS) has taken unprecedented steps to change its organizational structure, modernize its information systems, and improve its tarnished public image. These changes have brought some improvements which are welcomed by the Hispanic community.

INS has, in the past few years, brought ambitious, qualified people into certain key management positions, and streamlined departmental organization to improve the decision-making process. New strategies in the Examinations Division, such as the Balanced Adjudications System, have been innovative and have brought about certain positive results.

B. Automation

INS has made modernization of recordkeeping and information management a top priority, and is now in the equipment acquisition phase of its automation process. Because timely statistics are essential to sound policy formulation, and given a discouraging INS legacy of lost files, these efforts are welcomed by the Hispanic community.

Still, all indications suggest that the INS has far to go to successfully complete the automation process. The foundation of INS alien information -- data bases within the District Offices -- relies largely on paper filing systems, and "bugs" in newly automated central information systems still lead to inaccuracy in computer checks and cross-indexing. Given the INS' increasing reliance on these systems, in large-scale projects such as the SAVE Program, these shortcomings may have very serious implications.

C. Backlog Reductions

There is tangible evidence of improvement in INS operations. INS has made impressive gains in certain areas toward its goal of nationwide backlog reductions (see chart #1). Naturalization backlogs have dropped from an average of five months to less than two months, despite a rapidly growing workload. In San Francisco, an INS task force reportedly reduced naturalization backlogs 98 percent in one year, and the Harlingen, Texas office cut its backlog from 14.5 months to 2.5 months. These achievements directly benefit Hispanic immigrants and citizens who can, in a growing number of cases, avoid the extreme delays which were common in the past.

II. CONCERNS

A. Service Problems

Particularly in the area of service to the public, the INS still faces grave problems. While overall reductions in backlogs have been achieved, persons in

certain INS districts still suffer through long delays associated with continuing backlogs. In Los Angeles, for example, the naturalization backlog is currently listed at 15 months, an increase from the 8.1 month figure listed by the INS last fall. Similarly, in Newark, Philadelphia, and San Antonio, District Office backlogs actually increased in FY 1984 (see chart #2). La Raza is concerned that, given very limited service resources, reductions in backlogs in some INS districts appear to have been achieved through removing needed resources from other District Offices to mount concentrated task force efforts in notorious trouble spots.

In addition, the growing use of "up-front" application processes may result in somewhat misleading reductions in backlogs. Several INS District Offices have initiated the "up-front" procedure, wherein applicants do not mail in their petitions and wait for an appointment, but rather schedule a date on which they complete the entire petition process in person. Under this system, those persons waiting to schedule appointments for single-day review of applications will not be included as backlog cases on INS computer files, even though their cases are pending. Given the heavy workloads of District Office examiners, applicants may have to wait many months for appointments.

Another developing problem involves the Balanced Adjudications System, initiated by the INS to more effectively allocate limited resources with the goal of backlog reduction. The system streamlines adjudications in part by "remoting" a growing number of applications to Regional Adjudication Centers (RACs), which maximize productivity by minimizing adjudicators' contact with the public. Although the program has apparently been very successful in reducing pending caseloads in some areas, it makes little provision for prompt clarifiction of applicant error. Minor clarifications of applications which in the past were handled through single phone calls now may mean substantial delays in application processing time, and may even jeopardize fair review of some cases. In particular, we have received reports which suggest that, while successful applications take relatively little processing

time in the RACs, those persons filing remoted applications which are denied may face months of confusion and uncertainty.

On a broader scale, INS service to the public suffers from lack of adequate funding, staffing, and training. Irrespective of the past two years' changes in management strategy, there is no substitute for long-needed, targeted increases in funding for INS service activities. INS enforcement activities have historically received substantially more funding and positions than service functions, and this imbalance has consistently undermined the INS' ability to fulfill its service mission. In the past two years, however, the gap between INS' enforcement and service commitments has grown considerably (see chart #3). INS budget statistics and projections show that, from FY 1978 to FY 1985, funding for enforcement activities rose 104 percent, while examinations funding rose 48 percent. Over two-thirds of the increase in enforcement funding has occurred since FY 1982. The current fiscal year's budget adds approximately 1,000 Border Patrol positions, and the FY 1986 budget proposes further increases in enforcement functions.

In contrast, service funding and staffing levels have remained virtually unchanged, and, with inflation, have in effect been significantly reduced. Even given the progress, noted earlier, in management strategies and allocation of very limited resources, many problems remain which no amount of streamlining will effectively solve. Examinations staffing levels are too low, and staff face an ever-growing workload; training levels are inadequate, and lack orientation toward educating examiners and contact representatives on the most current INS procedures and in instilling knowledge and respect of Hispanic and other immigrant groups. Crowded, unpleasant local working conditions, which undoubtedly lead to INS personnel frustration and strain INS relations with the immigrant community, persist in INS District Offices nationwide.

B. Outreach

At a time when streamlining is placing an increasing importance on the quality of applications, the importance of INS' role in effectively training local immigration service organizations has grown proportionately. The fact that INS' Outreach Office exists in "Project" status, rather than in permanent "Unit" status, has led to the office's continual underfunding, its use for related temporary projects which for lengthy periods consume all Outreach personnel and resources (an example being the current Cuban Adjustment Program), and the danger of the office's being eliminated solely by administrative decision. According to our reports from the field, the current streamlining efforts and continual changes in INS procedure are intensifying the need for skilled representation of applicants for immigration benefits, which in turn relies on timely, effective training. Still, INS' Outreach Office has only three full-time training coordinators.

C. Enforcement Abuses

The issue of differential treatment of Hispanics in the administration of immigration laws remains a critical concern of the Hispanic community. While it is estimated that about 60 percent of the undocumented immigrants in the country are Hispanic, over 90 percent of persons apprehended, searched, detained, and expelled are Hispanic — and the proportion apparently is growing. INS interior enforcement efforts often threaten the civil and human rights of Hispanics. For example, in Northern California farming communities over the past year, the INS conducted several area control operations which were frighteningly discriminatory in their impact on local Hispanic communities. "Sweeps" in Sanger, Parlier, and other towns, where Hispanic neighborhoods were sealed off and all clientele in Hispanic-owned restaurants and bars were detained and questioned for as long as two hours, have led to lawsuits which once again allege INS abuse of Hispanics' civil rights.

With regard to interior enforcement efforts, La Raza suggests that the INS re-examine the cost-effectiveness of its area control operations. Incidents such as those described above damage public opinion of the INS, while INS statistics show that apprehensions related to area control operations have dropped steadily in the past several years. In 1980, 105,045 apprehensions, nearly 12 percent the total, occurred during these operations; that figure fell to less than 65,000, five percent of the total, in 1984. Since area control operations have engendered continual civil rights abuses against Hispanics, and since field reports indicate that a clear majority of aliens so removed re-enter the United States within relatively short periods, La Raza contends that area control is counterproductive in terms of INS resource allocation, litigation costs, and abuses of innocent persons.

Furthermore, new enforcement agency coordination, initiated after a 1983 INS policy change, has led to objectionable "piggy-backing" of INS activities on the search and seizure powers of other, legally unrelated law enforcement agencies. In one case, INS agents disrupted an investigation of licensing fraud in Chicago by using the City's employment records to identify undocumented aliens, provoking the City's Mayor to issue a public statement of non-cooperation with INS. Passage of resolutions of non-cooperation with INS in several other affected communities, including San Jose, California and Sanger, California, underscores the level of public concern which certain area control efforts have generated.

D. The SAVE Program

A new enforcement project, the Systematic Alien Verification for Entitlements (SAVE) Program, has been implemented by INS to "squeeze out" undocumented aliens from the United States by denying them entitlement benefits. In the SAVE process, state and local entitlement agencies are provided access to INS' automated central alien information system; employees at these agencies "verify" the eligibility of applicants who indicate non-citizen status through an INS computer check. Aliens

who are shown to be illegally in the country or who are not listed in INS files either are denied payments or are referred to INS for status clarification. In many cases, those so "referred" do not appear at INS offices, and are therefore presumed to be unentitled to benefits. The INS projects huge savings based on initial experiences with the SAVE Program.

Both the projected cost savings and the overall fairness of the progam are questionable, however, and warrant further investigation before scheduled expansion of the program occurs. INS cost avoidance estimates apparently assume extremely high rates of undocumented aliens' use of entitlements. More important, there have been many documented cases in which legal resident aliens were denied benefits because of gaps in INS automated file systems. Court-ordered investigations in Illinois and a General Accounting Office (GAO) audit of similar verification processes in California have shown that a significant proportion of referred aliens who "fail to appear" are in fact eligible, demonstrating that SAVE is deterring legal residents from receiving benefits to which they are entitled.

E. The Office of Professional Responsibility (OPR)

To INS' credit, a much needed emphasis on reform of the Office of Professional Responsibility (OPR), an independent Department of Justice division which investigates claims of INS staff misconduct, has slowly taken shape in the past several years. However, grave faults persist. A report released recently by the Department of Justice deplored the lack of cooperation by INS officials with OPR investigators, lack of Border Patrol oversight, and incidents of abuse and corruption. Continued budgetary limitations effectively deny OPR the capacity to fully carry out its crucial functions.

F. Cuban Adjustment Program

The adjustment of Mariel Cubans under the Cuban Adjustment Act of 1965 will soon begin. Many organizations now working with the affected population have raised

concerns over the procedures INS plans to use to determine the eligibility of Cubans applying for adjustment under the program, and the circumstances under which Mariel applicants might be subject to deportation to Cuba. The attached Fact Sheet, prepared by a coalition of Hispanic, civil liberties, and immigrant assistance organizations, fully explains these concerns, which demand prompt clarification. The coalition's fundamental concern is that certain Cubans may be deported before receiving the procedural and substantive due process to which they are entitled. A careful review of all cases, against publically defined criteria, must be undertaken to ensure fair, successful implementation of the program.

III. RECOMMENDATIONS

The National Council of La Raza recommends that current commendable efforts to improve the overall effectiveness of the INS be continued and expanded in a reasonable, balanced fashion, taking into account continued scarcity of service activity resources and persistent reports of enforcement-related abuses. Specifically:

- The historic and growing gap between INS' enforcement and service budget commitments must be reduced, through sustained increases in service funding and staffing levels, if the agency is to meet its statutory responsibilities for providing efficient, courteous immigration benefits to all legally entitled individuals.
- This enhancement of services must include an expansion and improvement of INS employee training.
- INS Outreach must be given permanent "unit" status, personnel, and funds, all necessary to complement current "streamlining" measures which place increasing importance on the quality of applicants' petitions.
- Since INS officials have acknowledged that area control operations to apprehend undocumented immigrants are "now the lowest priority as [they are] least effective in stemming the flow of illegal immigration into the U.S." (INS Records and Information Conference, 4/29-5/3, 1984), and because continued civil rights abuses are associated with these activities, interior control methods should be de-emphasized within the INS' enforcement programs.

- There exists a clear need for immediate reform of the Office of Professional Responsibility (OPR). While INS personnel heading OPR have reportedly increased attention to civil rights violations, the Office has neither the investigators nor the stature to effectively address issues of profound concern to the Hispanic community. Therefore, La Raza recommends that the INS both increase OPR resources and adopt a firm policy to ensure all INS personnel's cooperation with OPR efforts.

- La Raza urges the INS to carefully review its SAVE Program before expanding it to additional states as planned. While La Raza supports the goals of the SAVE Program, the deterrence of legally entitled persons' participation in programs providing health care assistance and food supplements must be addressed and eliminated.

- Finally, in the interest of preserving the United States' deserved image as a guarantor of all individuals' due process rights, La Raza calls on the INS to recognize and address procedural concerns which have been raised with respect to the current Cuban Adjustment Program. The confidence of all parties involved -- especially the affected immigrant community and cooperating Voluntary Agencies -- is essential to the program's successful completion, and will be instilled only through prompt clarification and, where necessary, revision of INS procedure.

IV. CONCLUSION

The National Council of La Raza and the Hispanic community recognize and applaud the INS' recent efforts to increase the overall effectiveness of the agency, and welcome the positive results achieved to date. These initial steps have enhanced the management base on which all future functions will rest. It is now imperative that adequate attention be given to correcting continuing flaws in the INS' service to the public, and eliminating continuing abuses of civil rights of Hispanics and others who come into contact with the Service.

Attached are several appendices to the preceding statement, which La Raza submits for the record.

CHART #1

IMMIGRATION AND NATURALIZATION SERVICE
NATURALIZATION BACKLOG REDUCTIONS
FIVE LARGEST DISTRICT REDUCTIONS

	END OF FY 1983		END OF FY 1984		
CITY	MONTHS	CASES PENDING	MONTHS	CASES PENDING	PERCENT REDUCTION
San Francisco	8.8	27,527	0.2	13,836	98
Harlingen	14.5	3,374	2.5	867	87
Washington, D.C.	15.7	6,522	4.1	4,011	74
Los Angeles	20.3	58,476	8.1	34,374	60
New Orleans	12.1	5,509	6.6	4,030	45

SOURCE: INS

CHART #2

IMMIGRATION AND NATURALIZATION SERVICE
NATURALIZATION BACKLOGS INCREASES
FIVE LARGEST DISTRICT INCREASES

	END Of FY 1983		END OF FY 1984		
CITY	MONTHS	CASES PENDING	MONTHS	CASES PENDING	PERCENT INCREASE
San Antonio	2.6	2,656	8.1	5,185	212
Philadelphia	1.7	2,030	3.2	3,791	83
Newark	3.4	9,090	4.8	14,847	41
Houston	8.8	7,538	9.0	8,081	11
Chicago	1.4	8,185	1.5	12,889	7

SOURCE: INS

CHART #3

IMMIGRATION AND NATURALIZATION SERVICE
FY 1978-1985 FUNDING/POSITIONS LEVELS
ENFORCEMENT vs. EXAMINATIONS

	ENFORCEMENT		EXAMINATIONS	
FISCAL YEAR	FUNDING ($000)	POSITIONS	FUNDING ($000)	POSITIONS
1978	145,288	4,888	83,676	2,701
1979	145,896	4,516	83,939	2,717
1980	169,042	4,764	102,700	2,762
1981	193,265	4,503	104,639	2,626
1982	222,265	4,835	106,576	2,586
1983	230,727	4,985	114,603	2,512
1984	241,958	4,837	122,734	2,620
1985	296,209	5,811	124,122	2,615

SOURCE: INS 1985 Budget Highlights